



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 13, 2010

Mr. Mark Adams
Office of the General Counsel
Office of the Governor
P.O. Box 12428
Austin, Texas 78711

OR2010-10395

Dear Mr. Adams:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 386372.

The Office of the Governor (the "OOG") received a request for all documents related to travel by the Governor and his spouse to China in June 2010.¹ You claim that some of the submitted information is excepted from disclosure under section 552.151 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.151 of the Government Code provides as follows:

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from [required public disclosure] if, under the specific circumstances pertaining to the

¹You state, and have provided documentation showing, the OOG sought and received clarification from the requestor regarding the request. See Gov't Code § 552.222(b) (stating that if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to narrow or clarify request, but may not inquire into purpose for which information will be used).

employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

Gov't Code § 552.151. The OOG asserts that the information it has marked in Exhibit B must be withheld because release of this information would subject the Governor to a substantial threat of physical harm. You explain that the information you have marked, including specific dates, locations, and names of individuals involved in planning the Governor's schedule, would be valuable for someone who intended to cause the Governor or his family harm. Upon review, we agree the release of a portion of the information at issue in Exhibit B, which we have marked, would subject the Governor to a substantial threat of physical harm. Accordingly, the OOG must withhold the information we have marked in Exhibit B under section 552.151 of the Government Code. However, we find you have failed to demonstrate that release of the remaining information at issue would subject the Governor to a substantial threat of physical harm. Accordingly, none of the remaining information may be withheld under section 552.151 of the Government Code.

We note the remaining information contains e-mail addresses subject to section 552.137 of the Government Code.² Section 552.137 excepts from disclosure "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body," unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See id.* § 552.137(a)-(c). The e-mail addresses we have marked are not specifically excluded by section 552.137(c). As such, the e-mail addresses must be withheld under section 552.137 unless the owners have affirmatively consented to their release.³ *See id.* § 552.137(b).

In summary, the OOG must withhold the information we have marked in Exhibit B under section 552.151 of the Government Code. The e-mail addresses we have marked must be withheld under section 552.137 unless the owners have affirmatively consented to their release. The remaining information must be released.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

³We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including an e-mail address of a member of the public under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in dark ink, appearing to read "Jennifer Burnett", with a long, sweeping horizontal line extending to the right.

Jennifer Burnett
Assistant Attorney General
Open Records Division

JB/dls

Ref: ID# 386372

Enc. Submitted documents

c: Requestor
(w/o enclosures)